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ON

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/154,274 09/16/98 TURI

Z BTG-5001

EXAMINER

QM12/0321

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LEWIS, W

ART UNIT

PAPER NUMBER

3731

DATE MAILED:

03/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
09/154,274

Applicant(s)

Turi

Examiner

William Lewis

Group Art Unit

3731☒ Responsive to communication(s) filed on Jan 29, 2000☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1-26, 28-51, 53-72, 74-96, and 98-114 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1-26, 28-51, 53-72, 74-96, and 98-114 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152
WILLIAM W. LEWIS

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3731

DETAILED ACTION

Reissue Applications

1. Applicant is reminded of the continuing obligation under 37 CFR 1.56 to timely apprise the Office of any litigation information, or other prior or concurrent proceeding, involving Patent No. 5,556,414 , which is material to patentability of the claims under consideration in this reissue application. This obligation rests with each individual associated with the filing and prosecution of this application for reissue. See MPEP §§ 1404, 1442.01 and 1442.04.
2. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
3. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414. The declaration fails to specifically point out at least one error. The fact that claims were omitted from the application is not a specific error.
4. Claims 1-26, 28-52, 53-72, 74-96 and 98-114 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Art Unit: 3731

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22-26, 28-51, 53-72, 74-96, and 98-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentz (US Patent 5,522,881) in view of Dardik et al. (US Patent 3,974,526). Lentz discloses the invention substantially as claimed. Lentz discloses a stent (28) and a tubular conduit (10). The tubular conduit (10) folds back over the stent (20, 22). Lentz teaches that the device can be utilized with a catheter. See column 2, lines 6 and 7. However, Lentz does not teach of using tissue. Dardik et al. teach of utilizing tissue (umbilical cord veins and arteries) in the same field of endeavor for the purpose of reducing the need for additional operations. See column 3, lines 7-57. It would have been within the level of one skilled in the art at the time of the invention to have replaced the conduit of the Lentz device with the tissue taught by Dardik et al. in order to reduce the number of operations needed.

Art Unit: 3731

Claim Rejections - 35 USC § 112

7. Claims 29-35, and 75-81, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 29-35 and 75-81 depend upon canceled claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. Lewis whose telephone number is (703) 308-0060.



WILLIAM W. LEWIS

WL

February 25, 2000